

REMARKS

Claims 1-37 are pending in this application. Claims 28-37 have been added above. Support for new claim 28 can be found in claim 1 as originally presented. Support for new claim 29 can be found in original claim 4. Support for new claims 30 and 31 can be found in original claims 9 and 10. Support for new claim 32 can be found in original claim 1, and support for new claims 33 and 34 can be found in original claims 9 and 10. Support for new claims 35 and 36 also can be found in original claims 9 and 10. Support for new claim 37 can be found in claim 27 as previously presented; the compound of formula I is as described in claim 26 as originally presented. Claim 1 has been amended to limit the definition of substituent Y and claim 4 has been amended so that it conforms with the new limitations of claim 1. Claim 7 has been amended to correct a couple of obvious grammatical errors. No new matter has been introduced into the claim set through these amendments or through the addition of the new claims.

The examiner noted that the subject matter of claim 8 (the elected species) remains free of the prior art but that the claim is objected to as dependent upon a rejected base claim. As discussed below, claim 1 has been amended to overcome the rejection.

In the currently outstanding Office Action, claims 1-7 and 9-27 have been newly rejected under 35 U.S.C. § 102(b) as anticipated by *Helvetica Chimica Acta* 24:158-173 (1941) (CAPLUS abstract). The examiner asserted that the reference discloses a

compound identified as RN=860538-24-5 and that this compound is encompassed by the recited claims. This rejection is traversed.

Looking at the general formula set forth in claim 1 of the present application, the cited reference discloses a compound wherein each of R, R₁ and R₂ is hydrogen, A is -CH-, X is a single bond and Y is a phenyl group. Claim 1 has been amended to amend the definition of Y such that Y no longer is a phenyl group. Thus, claim 1 as amended, no longer is anticipated by the reference. Claims 2-6, 10-14, and 18 depend, directly or indirectly from claim 1 or refer to the compounds of claim 1 and so also are not anticipated by the reference.

Independent claim 15, contrary to the examiner's rejection, is not anticipated by the compound identified as RN=860538-24-5. In the generic formula of claim 15, X cannot be a single bond. Accordingly, the claims depending from claim 15, claims 16, 17 and 19-24, also are not anticipated by the reference.

Independent claim 25 also is not anticipated by the compound identified as RN=860538-24-5. In the generic formula of claim 25, the R group is a non-hydrogen substituent. Claim 27 refers to the compounds of claim 25 and so also is not anticipated by the cited reference.

Independent claim 26 has been amended to delete from the scope of the claim those compounds in which X is a single bond. Accordingly, the compounds of claim 26 are not anticipated by the cited abstract.

New claim 28 is directed to a group of compounds wherein if Y is an aryl group, the aryl group must carry at least one non-hydrogen substituent. As such, the compounds of claim 28 are not anticipated by the cited abstract. Claims 8 and 29 depend from claim 28, and claims 30 and 31 refer, directly or indirectly, to the compounds of claim 28, and so also are free of the cited art.

New claim 32 is directed to a group of compounds of formula I wherein X can be an alkylene, $>C=O$ or $>C=S$, but is not a single bond. Accordingly, this claim is not anticipated by the compound of the cited reference. Claims 33 and 34 are directed to pharmaceutical formulations comprising the compounds of claim 32 and so also are not anticipated by the disclosure of the cited reference.

New claims 35 and 36 are directed to pharmaceutical formulations comprising a compound as defined in claim 1 as it had been presented prior to the current amendment to the claim. New claim 37 is directed to pharmaceutical formulations comprising a compound as defined in claim 26 as originally presented. Inasmuch as the cited reference describes a compound but does not teach or suggest that the compound could be useful as an agent in a pharmaceutical formulation, the reference does not render claims 35, 36 or 37 unpatentable.

Applicants submit that in view of the foregoing amendments and discussion the pending claims of the application are in condition for allowance.

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